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ALEXANDRIA, VIRGINIA 22314
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FACSIMILE: (703) 519-9802
WWW.KRAMERIP.COM

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TO:	Mail Stop Appeal Brief Patent USPTO
FAX NO.:	(571) 273-8300
FROM:	Terry W. Kramer KRAMER & AMADO, P.C.
DATE:	January 16, 2008
SUBJECT:	U.S. Patent Application Title: PROTECTED AND HIGH AVAILABILITY PATHS USING DBR REROUTE PATHS Serial No.: 10/699,786 Attorney Docket No.: ALC 3095
PAGES:	INCLUDING COVER PAGE (19)

Message: Submitted herewith are the following:

- Transmittal Form (1 page)
- Fee Transmittal Form (1 page)
- Credit Card Form (1 page)
- Appeal Brief (15 pages)

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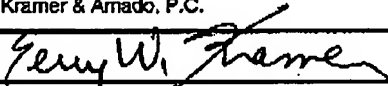
TRANSMITTAL FORM
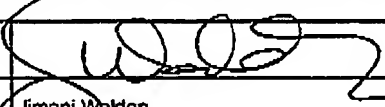
(to be used for all correspondence after initial filing)

Application Number	10/699,786
Filing Date	November 4, 2003
First Named Inventor	Michael Ellsworth Weedman
Art Unit	2616
Examiner Name	Dady Chery
Attorney Docket Number	ALC 3095

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Total Number of Pages in This Submission | 18

ENCLOSURES   *(Check all that apply)*

- [✓] Fee Transmittal Form
  - [✓] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53

- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD

Remarks

- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [✓] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [ ] Other Enclosure(s) (please Identify below):

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Kramer & Amado, P.C.
Signature	*[signature]*
Printed name	Terry W. Kramer
Date	January 16, 2008	Reg. No.	41,541

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Signature	*[signature]*		
Typed or printed name	Jimani Walden	Date	January 16, 2008

FEE TRANSMITTAL
For FY 2008

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT	($)	$510.00

Complete if Known

Application Number	10/699,786
Filing Date	November 4, 2003
First Named Inventor	Michael Ellsworth Weedmark
Examiner Name	Dady Chery
Art Unit	2616
Attorney Docket No.	ALC 3095

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	Small Entity Fee ($)	SEARCH FEES Fee ($)	Small Entity Fee ($)	EXAMINATION FEES Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	310	155	510	255	210	105	_____
Design	210	105	100	50	130	65	_____
Plant	210	105	310	155	160	80	_____
Reissue	310	155	510	255	620	310	_____
Provisional	210	105	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP = _____	x _____	= _____	

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP = _____	x _____	= _____	

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $260 ($130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____	= _____

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount)

Fees Paid ($)

Other (e.g., late filing surcharge): Appeal Brief $510.00

SUBMITTED BY

Signature	*Terry W. Kramer*	Registration No. (Attorney/Agent) 41,541	Telephone 703-519-9801
Name (Print/Type)	Terry W. Kramer		Date January 16, 2008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

RECEIVED
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In re Application of	:	Michael Ellsworth Weedmark JAN 16 2008
For	:	PROTECTED AND HIGH AVAILABILITY PATHS USING DBR REROUTE PATHS
Serial No.:	:	10/699,786
Filed	:	November 4, 2003
Art Unit	:	2616
Examiner	:	Dady Chery
Att. Docket	:	ALC 3095
Confirmation No.	:	5910

APPEAL BRIEF

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed November 19, 2007.

I. REAL PARTY IN INTEREST

The party in interest is ALCATEL by way of an Assignment recorded at Reel 014670, frame

0870.

Application No: 10/699,786
Attorney's Docket No: ALC 3095

II. RELATED APPEALS AND INTERFERENCES

Following are identified any prior or pending appeals, interferences or judicial proceedings,
known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which
will directly affect or be directly affected by or have a bearing upon the Board's decision in the
pending appeal:

NONE.

III. STATUS OF CLAIMS

Claims 1-26 are on appeal.

Claims 1-26 are pending.

No claims are allowed.

Claims 1-26 are rejected.

IV. STATUS OF AMENDMENTS

All Amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter recited in claim 1 relates to a method of implementing an Active
Connection Modify (ACM) for a connection in a communication system (see [22]-[29]; Fig. 2),
the connection initially lying along an original connection between a source node and a
destination node, the original connection conforming with at least one original traffic parameter,

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the method comprising the steps of: establishing an alternate connection between the source node

(see [23]; Fig. 2) and the destination node; attempting to implement the ACM along the original

connection; determining whether the connection along the original connection must be torn down

(see [22], [28]-[29]; Fig. 2); and if the connection along the original connection must be torn

down, switching the connection to the alternate connection before tearing down the connection

along the original connection (see [22]; Figs. 1-2).

The subject matter recited in claim 14 relates to a method of implementing an Active

Connection Modify (ACM) for a connection in a communication system (see [22]-[29]; Fig. 2),

the connection initially lying along an original connection between a source node and a

destination node, the original connection conforming with at least one original traffic parameter,

the method comprising the steps of: receiving an ACM request from a user (see [22]);

determining whether the ACM request includes a request that the connection be protected (see

[22]); if the ACM request includes a request that the connection be protected, establishing an

alternate connection between the source node and the destination node (see [22]); and attempting

to implement the ACM along the original connection (see [22]); determining whether the

connection along the original connection must be torn down (see [22]); if the connection along

the original connection must be torn down and if the connection is to be protected, switching the

connection to the alternate connection before tearing down the connection along the original

connection (see [22]; Figs. 1-2).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

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Application No: 10/699,786
Attorney's Docket No: ALC 3095

A.   Claims 1-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S.

Patent No. 6,111,881 to Soncodi, in view of WO 98/49862 So et al. (hereinafter "So").

VII. ARGUMENT

A. Rejection of Claims 1-26 Under 35 U.S.C. §103(a)

The Final Office Action dated September 17, 2007, rejects claims 1-26 under 35 U.S.C. §

103(a) as being unpatentable over Soncodi in view of So.

1. Claims 1 and 14

Claims 1 and 14, from which claims 2-13 and 15-26 depend, recite, "determining whether the

connection along the original connection must be torn down," and "if the connection along the

original connection must be torn down...switching the connection to the alternate connection." With

respect to the above-quoted subject matter, the Office Action relies on column 5, lines 22-29 of

Soncodi.

Soncodi discloses clearing the old route after a new route is established. However, Soncodi

does not disclose, teach or suggest determining whether the connection "must" be torn down (i.e.)

"cleared." Thus, Soncodi also does not disclose, teach or suggest a switching action that occurs if

the above determination is made.

So fails to overcome the deficiencies in Soncodi described above.

In the first instance of section 1 on page 2, the Office Action also includes a "Response to

Arguments." In the Response to Arguments, the Office Action supplementally relies on column 2,

lines 46-59 of Soncodi. However, column 2, lines 46-59 of Soncodi do not disclose, teach or suggest

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determining whether the connection "must" be torn down (i.e. "cleared"). Thus, Soncodi also does not disclose, teach or suggest a switching action that occurrs if the above determination is made as recited in claim 1 and 14.

In fact, nowhere does Soncodi or So disclose, teach or suggest determining whether the connection must be torn down or a switching action that occurs if this determination is made.

For at least the foregoing reasons, claims 1 and 14 are patentable over Soncodi in view of So because the combination of Soncodi and So does not teach or suggest each and every element recited in claims 1 and 14.

2. Claims 2-13 and 15-25

Claims 2-13 and 15-25 depend from claims 1 and 14, respectively, and are therefore also patentable for at least the reasons stated above in connection with claims 1 and 14, as well as for the separately patentable subject matter recited therein.

Application No: 10/699,786
Attorney's Docket No: ALC 3095

CONCLUSION
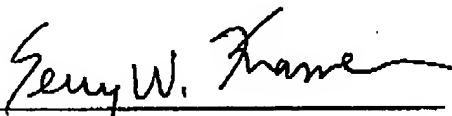
For at least the reasons discussed above, it is respectfully submitted that the rejections are in error and that claims 1-26 are in condition for allowance. For at least the above reasons, Appellants respectfully request that this Honorable Board reverse the rejections of claims 1-26.

Respectfully submitted,
KRAMER & AMADO, P.C.

_____January 16, 2008_____
Date

Terry W. Kramer
Reg. No. 41,541

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314
Tel. (703) 519-9801
Fax. (703) 519-9802

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VIII. CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL:

1.   A method of implementing an Active Connection Modify (ACM) for a connection in a

communication system, the connection initially lying along an original connection between a

source node and a destination node, the original connection conforming with at least one original

traffic parameter, the method comprising the steps of:

> establishing an alternate connection between the source node and the destination node;

> attempting to implement the ACM along the original connection;

> determining whether the connection along the original connection must be torn down; and

> if the connection along the original connection must be torn down, switching the

connection to the alternate connection before tearing down the connection along the original

connection.

2.   The method of claim 1 further comprising the step of initiating a timer, and wherein the

step of determining whether the connection along the original connection must be torn down

comprises determining whether the timer expires before receipt of an ACM-related message at

the source node from another node along the original connection.

3.   The method of claim 1 wherein the step of establishing an alternate connection

establishes an alternate connection so as to conform with the at least one original traffic

parameter.

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4.   The method of claim 1 wherein the step of establishing an alternate connection
establishes an alternate connection so as to conform with at least one new traffic parameter
corresponding to the ACM.

5.   The method of claim 4 further comprising the steps of:

monitoring for receipt of a MODIFY REJECT message at the source node; and

if a MODIFY REJECT message is received at the source node, switching the connection
to the alternate connection and tearing down the connection along the original connection.

6.   The method of claim 1 wherein the ACM is one of a protected ACM and a protected and
enabling ACM, a protected ACM being one where the connection is to be maintained even if
only in conformance with the at least one original traffic parameter, a protected and enabling
ACM being one where the connection must be adapted to conform to at least one new traffic
parameter specified by the ACM, wherein if the ACM is a protected ACM the step of
establishing an alternate connection comprises establishing the alternate connection in
conformance with the at least one original traffic parameter, wherein if the ACM is a protected
and enabling ACM the step of establishing an alternate connection comprises establishing the
alternate connection in conformance with the at least one new traffic parameter, and wherein the
method comprises the further step of:

determining whether the ACM is a protected ACM and whether the ACM is a protected
and enabling ACM.

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7.   The method of claim 6 further comprising the steps of:

monitoring for receipt of a MODIFY REJECT message at the source node; and

if a MODIFY REJECT message is received at the source node and if the ACM is a

protected and enabling ACM, switching the connection to the alternate connection and tearing

down the connection along the original connection.

8.   The method of claim 1 wherein the communication system employs Asynchronous

Transfer Mode.

9.   The method of claim 1 wherein the communication system employs Multiprotocol Label

Switching.

10.   An Active Connection Modify controller within a source node of a communication

system, comprising instructions for executing the method of claim 1.

11.   An Active Connection Modify controller within a source node of a communication

system, comprising instructions for executing the method of claim 6.

12.   A computer-readable medium comprising instructions for executing the method claim 1.

13.   A computer-readable medium comprising instructions for executing the method claim 6.

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14.   A method of implementing an Active Connection Modify (ACM) for a connection in a

communication system, the connection initially lying along an original connection between a

source node and a destination node, the original connection conforming with at least one original

traffic parameter, the method comprising the steps of:

receiving an ACM request from a user;

determining whether the ACM request includes a request that the connection be

protected;

if the ACM request includes a request that the connection be protected, establishing an

alternate connection between the source node and the destination node; and

attempting to implement the ACM along the original connection;

determining whether the connection along the original connection must be torn down;

if the connection along the original connection must be torn down and if the connection is

to be protected, switching the connection to the alternate connection before tearing down the

connection along the original connection.

15.   The method of claim 14 further comprising the step of initiating a timer, and wherein the

step of determining whether the connection along the original connection must be torn down

comprises determining whether the timer expires before receipt of an ACM-related message at

the source node from another node along the original connection.

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16.   The method of claim 14 wherein the step of establishing an alternate connection establishes an alternate connection so as to conform with the at least one original traffic parameter.

17.   The method of claim 14 wherein the step of establishing an alternate connection establishes an alternate connection so as to conform with at least one new traffic parameter corresponding to the ACM.

18.   The method of claim 17 further comprising the steps of:

monitoring for receipt of a MODIFY REJECT message at the source node; and

if a MODIFY REJECT message is received at the source node, switching the connection to the alternate connection and tearing down the connection along the original connection.

19.   The method of claim 14 wherein if the connection is to be protected the ACM is one of a protected ACM and a protected and enabling ACM, a protected ACM being one where the connection is to be maintained even if only in conformance with the at least one original traffic parameter, a protected and enabling ACM being one where the connection must be adapted to conform to at least one new traffic parameter specified by the ACM, wherein if the ACM is a protected ACM the step of establishing an alternate connection comprises establishing the alternate connection in conformance with the at least one original traffic parameter, wherein if the ACM is a protected and enabling ACM the step of establishing an alternate connection

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comprises establishing the alternate connection in conformance with the at least one new traffic

parameter, and wherein the method comprises the further step of:

    if the ACM request includes a request that the connection be protected, determining

whether the ACM is a protected ACM and whether the ACM is a protected and enabling ACM.

20.   The method of claim 19 further comprising the steps of:

    monitoring for receipt of a MODIFY REJECT message at the source node; and

    if a MODIFY REJECT message is received at the source node and if the ACM is a

protected and enabling ACM, switching the connection to the alternate connection and tearing

down the connection along the original connection.

21.   The method of claim 14 wherein the communication system employs Asynchronous

Transfer Mode.

22.   The method of claim 14 wherein the communication system employs Multiprotocol Label

Switching.

23.   An Active Connection Modify controller within a source node of a communication

system, comprising instructions for executing the method of claim 14.

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24. An Active Connection Modify controller within a source node of a communication

system, comprising instructions for executing the method of claim 19.

25. A computer-readable medium comprising instructions for executing the method claim 14.

26. A computer-readable medium comprising instructions for executing the method claim 19.

IX. EVIDENCE APPENDIX

A copy of the following evidence 1) entered by the Examiner, including a statement setting

forth where in the record the evidence was entered by the Examiner, 2) relied upon by the Appellant

in the appeal, and/or 3) relied upon by the Examiner as to the grounds of rejection to be reviewed on

appeal, is attached:

NONE

- 14 -

X. RELATED PROCEEDINGS APPENDIX

Copies of relevant decisions in prior or pending appeals, interferences or judicial

proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be

related to, or which will directly affect or be directly affected by or have a bearing upon the

Board's decision in the pending appeal are attached:

NONE

- 15 -